

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

CRIMINAL CASE NO. 2:07cv07

LARRY FRANKLIN PHILLIPS,)
)
 Petitioner,)
)
 vs.)
)
)
UNITED STATES OF AMERICA,)
)
 Respondent.)
_____)

ORDER

THIS MATTER is before the Court on the Petitioner's Application for Certificate of Appealability [Doc. 22].

The Petitioner was sentenced to life imprisonment for his conviction of conspiracy to possess with intent to distribute methamphetamine.

United States v. Phillips, Criminal Case No. 2:02cr104. His conviction and sentence were affirmed on direct appeal. United States v. Phillips, 127 Fed.Appx. 641 (4th Cir. 2005), *certiorari denied* 546 U.S. 879, 126 S.Ct. 189, 163 L.Ed.2d 180 (2005).

On April 3, 2007, the Petitioner's motion pursuant to 28 U.S.C. §2255 to vacate, set aside or correct sentence was denied because it had been

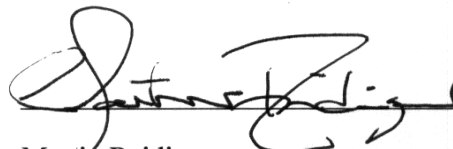
untimely filed. [Doc. 6]. The Petitioner filed a notice of appeal. [Doc. 7]. On July 25, 2007, the United States Fourth Circuit Court of Appeals declined to issue a certificate of appealability and dismissed the appeal. [Doc. 14].

The Circuit's mandate was filed on October 15, 2007. [Doc. 21].

On August 2, 2010, more than three years after the Circuit's dismissal of the appeal, the Petitioner filed this motion for a certificate of appealability. He attached to the motion four exhibits which he has characterized as motions to suppress evidence in his closed criminal case. There is, however, nothing pending from which an appeal may be taken. The Petitioner's §2255 motion was denied; his appeal was dismissed; and there is nothing pending in this Court.

IT IS, THEREFORE, ORDERED that the Petitioner's Application for Certificate of Appealability [Doc. 22] is hereby **DENIED** as moot.

Signed: September 3, 2010


Martin Reidinger
United States District Judge

